IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6721 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHARATSINH NAVALSINH CHAUHAN

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6721 of 2002

MR HASIT H JOSHI for Petitioner No. 1

MR SUDHIR MEHTA, Ld. AGP for Respondent No. 1

RULE SERVED for Respondent No. 2-3

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 05/02/2003

ORAL JUDGEMENT

1. Heard Mr.Barot for Mr.Hasit H. Joshi for the

petitioner and Mr.Mehta, learned AGP for the respondent State.

2. Having heard the learned Counsel for both the sides, it appears that the present case is covered by the decision of this Court in SCA No.5424/2002 dated 5-2-2003 on the point of computing the income limit of the deceased employee in as much as while computing the said limit, the income of family pension is required to be excluded. The perusal of the order dated 16-6-2000, copy whereof is produced at Annexure "G" shows that the income of the family of the deceased employee is assessed as Rs.3,420/= comprising of the income of family pension of Rs.3,320/= and Rs.100/= per month of the agricultural income and, therefore, it is found that it is exceeded Rs.2,500/= and if the amount of family pension is excluded, then the income of the family of the deceased will come below Rs.2,500/= and, therefore, the decision dated 16-6-2000 is illegal and deserves to be quashed and set aside. In the result, the impugned decision dated 16-6-2000, Annexure "G", is quashed and set aside and the respondents are directed to compute the income of the family of the deceased employee by excluding the family pension and are further directed to consider the case of the petitioner for compassionate appointment after taking into consideration all other criteria and relevant aspects of the matter.

3. The petition is allowed to the aforesaid extent. Rule made absolute accordingly. No costs. D.S.

5-2-2003 (Jayant Patel, J.)

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